



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.302 of 2019

K.Viswanathan

.. Petitioner

Vs.

A.Ramadoss

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records in the order dated 04.10.2018 passed in Crl.M.P.No.2369 of 2018 in unnumbered C.C.No. of 2018 on the file of the Judicial Magistrate Court, (Fast Track), Kallakurichi and set aside the same.

For Petitioner : No Appearance

For Respondent : Mr.J.Agniselvaraju

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O R D E R

This Criminal Revision has been filed to set aside the order dated 04.10.2019 passed in Crl.M.P.No.2369 of 2018 in C.C.No. of 2018 (Unnumbered) on the file of the learned Judicial Magistrate, (Fast Track Court), Kallakurichi.

2. There is no appearance for the petitioner. The learned counsel for the respondent is present. Perused the materials on record.

3. The respondent filed a private complaint before the learned Judicial Magistrate, Fast Track Court, Kallakurichi under Section 200 Cr.P.C for the offence under Section 138 of Negotiable Instruments Act. Since the private complaint was filed with a delay of 42 days, he has filed a petition in Crl.MP.No.2369 of 2018 to condone the delay and the same was allowed and the delay of 42 days was condoned on 04.10.2018. Against the said order, the accused has preferred the present revision.

4. Section 140 of the Act itself states that after return of cheque, within one month statutory notice has to be given and within one month from the date of receipt of the statutory



notice, complaint has to be filed before the Magistrate. In case any petition is filed to condone the delay, if the Court satisfies with the same, the Court would condone the delay. So far as, condonation of the delay is concerned, it is the discretionary power of the Court. While the Court exercised the discretionary power, it has to be seen whether the discretionary power is exercised by judiciary or arbitrary. When it is exercised by arbitrary, this Court can interfere with the power exercised by the learned Magistrate concerned, if it is not arbitrary, then this Court can not interfere with the discretionary power exercised by the learned Magistrate. This Court finds that the discretionary power exercised by the learned Magistrate need not to be interfered.

5. On a reading of the entire materials, the learned Magistrate exercised the discretionary power by judiciary. Therefore, this Court finds no reason to interfere with the order passed by the Court below. Hence, this Criminal Revision Case shall stand dismissed. Therefore, the learned Judicial Magistrate, Fast Track Court, Kallakurichi, is directed to take the complaint on file and proceed the case in accordance with law.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Judicial Magistrate,  
Fast Track Court,  
Kallakurichi.

Copy to: The Section Officer,  
Criminal Section,  
High Court, Madras.

Cr1.R.C.No.302 of 2019

VSNII(CO)  
CB(06/01/2020)